



**CALIFORNIA STATE
PUBLIC WORKS BOARD**

EDMUND G. BROWN JR. • GOVERNOR

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STATE PUBLIC WORKS BOARD
February 1, 2012

MINUTES

PRESENT:

Mr. Pedro Reyes, Chief Deputy Director, Policy, Department of Finance
Mr. Esteban Almanza, Chief Deputy Director, Department of General Services

STAFF PRESENT:

Greg Rogers, Administrative Secretary
Brian Dewey, Assistant Administrative Secretary
Matt Paulin, Assistant Program Budget Manager
Maria Lo-Aoyama, Budget Analyst
Andy Ruppenstein, Budget Analyst

CALL TO ORDER AND ROLL CALL:

Mr. Pedro Reyes, Chairperson of the Board and Chief Deputy Director of the Department of Finance, called the meeting to order at 9:00 a.m. Mr. Greg Rogers, Administrative Secretary for the Board, called the roll. A quorum was established.

ACTION ITEMS:

Mr. Reyes stated that this meeting was to discuss the two Action Items that were pulled from the January 19, 2012 Board Meeting to let the legislative review period expire and for Board and Department of Parks and Recreation (Parks) staff to address some concerns that were raised. Mr. Rogers added that the two Action Items were related to operating agreements and concession agreements at various state parks. The two Action Items addressed issues regarding recent budget reductions to state parks and were consistent with both the Administration's and the Legislature's policy direction to explore alternatives to keep state parks accessible to the public in order to minimize the effect from the July 1, 2012 planned park closures.

ACTION ITEM 1: Action Item #1, Department of Parks and Recreation, was to approve two operating agreements. The first agreement would allow Sonoma County to operate Annadel State Park and the other agreement would allow the City of Benicia to operate the Benicia State Recreation Area.

Mr. Rogers summarized the law that allows the Board to review and approve proposed agreements that were submitted to the Legislature for review after the annual budget process, and explained that deferring review and approval of the potential operating agreements at any of the 70 state parks, subject to closure July 1, 2012, until the Legislature considers the 2012-13 Budget Bill would be adverse to the interests of the public.

Mr. Rogers reported that although final details of the proposed operating agreements were not currently known, the final agreements must be consistent with the criteria previously approved by the Board. Specifically, the agreements would include a contract term of up to five years. Consistent with the Public Resources Code sections governing operating agreements, revenues from the park units must be used to operate and maintain the park units with any net profit returned to Parks. In addition, the operating agreements would not result in a net increase in

state funding or staffing levels to support continued public services at the park units. The operating agreements would also include hold harmless provisions and insurance requirements to ensure that there is no significant increase in the state's risk exposure or legal liability that would otherwise apply to a closed state park. Parks provided financial projections of the agreements' anticipated operational costs and revenues.

Mr. Rogers stated that the 20-day legislative notification for Action Item #1 expired without adverse comments.

There were no questions or comments from the Board or the public.

A motion was made by Mr. Almanza and seconded by Mr. Reyes to approve Action Item 1. The motion was approved by a 2-0 vote.

ACTION ITEM 2: Action Item #2, Department of Parks and Recreation, was to approve concessions in 11 park units through a Request for Proposal (RFP) process.

Mr. Brian Dewey, Assistant Administrative Secretary for the Board, reported that Action Item 2 addressed concessions with private entities. The proposed concessions included the operation of campgrounds, day-use areas, restaurants, and associated facilities including, but not limited to, restrooms and kiosks.

Mr. Dewey stated that approval of the request would authorize Parks to enter into one or more concession contracts for distinct elements within 11 of the 29 state park units covered by the November 11, 2011 Board action, with private entities through a RFP process. Parks intended to issue two RFPs for concessions in 11 state park units; one RFP included six park units, and the other RFP included five park units.

Mr. Dewey noted that Action Item 2 experienced the same budget timeline predicament Mr. Rogers spoke of in Action Item 1. As with Action Item 1, final details of the contracts were unknown because the proposed contracts would not be awarded by Parks staff until the conclusion of the RFP and selection process; however, criteria previously adopted by the Board allowed contracts to include a contract term of up to five years and a minimum payment of three percent gross sale rate to the state. The proposed contracts would also include hold harmless provisions and insurance requirements to minimize the state's risk, exposure, and legal liability. The proposed concession contracts were intended to enhance public access at the park units that would otherwise not occur without the concession.

Mr. Dewey stated that following the 20-day legislative notification for Action Item 2, Board staff received letters from two individual members of the Legislature, including Senator Noreen Evans, a Legislative Advisor to the Board, as well as a letter from the Joint Legislative Budget Committee (JLBC).

The JLBC letter recognized the need to explore the use of concessions as one of many tools to help minimize the effects of park closures and noted several concerns regarding the RFP process. The letter also expressed JLBC's desire to maintain the Department's flexibility in considering the full range of options available and provided a couple of suggestions to Parks in the development of the RFPs, which Parks has agreed to incorporate.

Mr. Dewey reported that Parks staff met with Senator Evans, as well as other Legislative staff, in an attempt to address many misconceptions regarding the proposal.

In summary, it was requested that the Board approve concessions in 11 park units through an RFP process, consistent with the staff analysis.

Mr. Reyes asked if there were any questions or comments from the Board or the public. Mr. Tom Roth, Chief of Staff for Senator Evans and present on her behalf, emphasized two major points to the Board:

1. Circulating RFPs for concessions for parks where non-profit organizations are currently working to develop operating agreements with Parks would undermine the efforts of the non-profits.
2. The approval of RFPs for concession agreements that would prioritize public resources by turning over entire operations of one or several parks for for-profit business is both bad policy and raises serious legal question.

Mr. Roth stressed that although it appeared the second point had been addressed, clarification – in writing – that the RFP would not be for operation of concessions for an entire park was necessary.

In closing, Mr. Roth stated that the Board's action toward Action Item 2 was more than a step in a bureaucratic process, but was an indication as to whether or not the Board wanted to protect the parks for the citizens of this state. The fact that Parks had decided they would not move toward privatization was a victory for the state of California; however, Parks still seemed to be moving forward with RFPs that were in conflict with local non-profits, which was troublesome and problematic in achieving the operating agreements that the non-profit organizations had worked so hard to get.

Ms. Carolyn Cathey, Executive Director of the Mendocino Area Parks Association, stated that their local non-profit and community groups had been working since May to put proposals together. Ms. Cathey believed that her association could do a good job on a local level because their efforts were based on love and not for a profit. In addition, they have a community buy-in involvement and the money raised in the park would stay in the county to assist with their economic situation.

Mr. Michael Harris, Acting Chief Deputy Director for the California State Parks began by thanking the Board for holding the special meeting for the two Action Items. Mr. Harris stated that Parks was faced with the unprecedented situation of closing parks driven by a budget reduction. Mr. Harris stated the following points:

- Parks was not bringing concessions for entire parks.
- In accordance with state law pertaining to the competitive bidding process, Parks would release the RFP for public comment, review the public comments, and incorporate the comments either as an amendment or errata sheets to the RFP.
- Parks staff was committed to continuing negotiations with the non-profit organizations but would evaluate proposals, be them from non-profit or for-profit organizations, solely based on the organization's ability to deliver Parks' mission, which is to serve the public and protect the resources of the parks.

In summary, Mr. Harris was in agreement to continue discussions and negotiations with the non-profit organizations and possibly to enter into the agreements if the agreements are in line with Parks' mission, which is to protect the park and serve the public. However, Mr. Harris requested the Board approve the staff recommendation to proceed with the RFP process as an alternative in the event that said operating agreements with non-profits are unsuccessful.

Mr. Reyes asked Mr. Harris what assurance Parks staff was offering to ensure they would be more responsive to non-profit organizations. Mr. Harris answered that Parks have scheduled five technical assistance workshops around the state for potential partners, which include donors, non-profits, local governments, and concessionaires. The workshops are designed for Parks staff to work with potential partners in developing the best possible proposal they can. In addition, a workbook is being developed that will assist partners in identifying what they are going to do and how that serves Parks' mission.

Mr. Harris stated that Parks staff was currently in discussions with groups at several parks and has high expectations that the discussions would lead to operating agreements. He assured that Parks staff would not delay the agreements to pursue RFPs unless an operating agreement that serves the mission cannot be reached in a timely manner.

Mr. Almanza asked Mr. Harris if the contingency would still work for the remaining parks that do not receive successful operating agreements with non-profits. Mr. Harris responded yes, but it would be prudent to have a Plan B.

Mr. Reyes was prepared to support Action Item 2 with the exception that Board staff review the agreements prior to finalization in an attempt to protect the state.

Mr. Dewey clarified that the staff recommendation was modified to reflect the approval of concessions for 11 state park units through an RFP process consistent with the staff analysis, provided that Parks staff submit the concession contracts to Board staff for review prior to final approval.

There were no further questions or comments from the Board or the public.

A motion was made by Mr. Almanza and seconded by Mr. Reyes to approve Action Item 2 with modification. The motion was approved by a 2-0 vote.

NEXT MEETING:

Mr. Rogers stated that the next Public Works Board meeting is scheduled for **Friday, February 10, 2012, at 10:00 a.m., at the State Capitol, in Room 113.**

The meeting was adjourned at 9:40 a.m.